THE HONOURABLE SRI JUSTICE NOOTY RAMAMOHANA RAO

W.P.No.11926 of 1997

Dated:13-12-2006

BETWEEN:

Kumra Gangavath and another Petitioners

And

Revenue Divisional Officer, Adilabad, Adilabad District and another

Respondents

W.P.No.18097 of 1997

BETWEEN:

Rajakka and others Petitioners

And

Revenue Divisional Officer and others

Respondents

THE HONOURABLE SRI JUSTICE NOOTY RAMAMOHANA RAO

W.P.No.11926 OF 1997

And

W.P.No.18097 OF 1997

COMMON ORDER:

1. The writ petitions have been instituted by the petitioners calling in question the correctness of the orders passed on 07-10-1996 by the Revenue Divisional Officer, Adilabad threatening to take possession of the lands belong to them.

2. The writ petitioners allege that the second respondent one Sri Tajmulyar Khan appears to have filed a declaration under the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 and that he has been declared to be having net surplus land of 3.4111 standard holdings in excess of the ceiling area under Section 10 (1) of the said Act. Therefore, an order has been passed by the Land Reforms Tribunal, Adilabad on 11.03.1983 directing the said Tajmulyar Khan to surrender the excess land held by him. Then he carried the matter by way of revision by filing C.R.P.No.1092 of 1984 in this court, which ultimately came to be dismissed on 14-2-1987. However, the second respondent did not surrender the land as was directed thus leaving it for the Land Reforms Tribunal to select *suo-motto* the land which is to be taken possession of by the State. Hence, the Land Reforms Tribunal, Adilabad passed orders through it's proceedings dated 01-10-1996 declaring that the lands in Survey Nos.27/B, 94 and 95 of Tantoli village have been selected and accepted as surplus land. The writ petitioners have nothing to do with this exercise of either declaring the second respondent as holding land in excess of the ceiling limit or the selection of the land by the Land Reforms Tribunal, in the absence of the land holder surrendering the land himself. But very strangely the Revenue Divisional Officer, Adilabad has published the impugned notice on 7th October, 1996, directing the possession of the lands situated among other lands in Survey No.57/B of an extent of Ac.6.98 cents also to be surrendered within a week's time from the orders passed by the Land Reforms Tribunal on 01-10-1996. In the notice dated 07-10-1996, there is no mention of the lands situated in Survey Nos. 94 and 95 instead lands in Survey Nos.55, 56 and 57/B have been notified apart from the lands in Survey No.27 of Tantoli village. Since the writ petitioners are concerned with the land situated in Survey No.57/B, they have instituted the present writ

petitions.

3. Heard the learned counsel for the petitioners as well as the learned Government Pleader for the Revenue.

4. The orders passed by the Land Reforms Tribunal on 01-10-1996 contrasted with the orders passed by the Revenue Divisional Officer on 07-10-1996, it emerges that the Revenue Divisional Officer while passing the orders on 7th October, 1996 has completely lost sight of the orders passed by the Land Reforms Tribunal on 01-10-1996. While it is absolutely correct upon the State to demand a surplus land holder to surrender such excess land held by him, but nonetheless the same has got to be confined to the lands owned and held by such a declarant who has been so declared as holding land in excess of the permissible limits. In the guise of selecting or taking possession of the lands pursuant to the determination of the ceiling limits of the declarant, land not belonging to or not owned by declarant cannot be proceeded against it. Once the writ petitioners pointed out that they have nothing to do with the lands owned and possessed by the original declarant, it is inevitable for the Revenue Administration to remedy the situation by correcting the error that has crept on the record. Since the orders passed by the Land Reforms Tribunal, Adilabad on 01-10-1996 and the notification issued by the Revenue Divisional Officer on 07-10-1996 are not matching with each other exactly to the last detail in respect of the lands to be liable to be surrendered by the 2nd respondent, the writ petitioners are justified in mounting a criticism that the respondent-Revenue Divisional Officer is proceeding in the matter in a mechanical fashion. While selecting the lands for taking possession, in the absence of voluntary surrender by the declarant, the State is not liable to proceed against persons or lands held by such persons who are no way connected with the excess land holder. It is therefore, appropriate that any orders passed by the Revenue Divisional Officer have got to be in consonance and in compliance with the orders passed by the Land Reforms Tribunal but they cannot be in derogation of the determination already made by the Land Reforms Tribunal. In this view of the matter, I set-aside the orders passed by the Revenue Divisional Officer, Adilabad on 07-10-1996 and remit the matter back for fresh consideration by the said authority. The respondent-Revenue Divisional Officer is therefore directed to identify within 3 months from today, the lands held by the original declarant viz. the 2nd respondent and determine such lands which have been held by him in excess of the ceiling limit and take possession of only such

extent of lands and situate in such survey numbers, as was already determined by the Land Reforms Tribunal through it's Notification dated 01-10-1996. In the process of this exercise the interests of the petitioners are effected, it is only appropriate that they be provided with an opportunity of hearing.

5. With this, the writ petition stands disposed of but however without costs.

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NOOTY RAMAMOHANA RAO,J

13-12-2006
Stp